

**MINUTES
PUBLIC SAFETY COMMISSION
March 21, 2012
Austin, TX**

The Public Safety Commission met in Austin, Texas on March 21, 2012. Attending the meeting were Chairman Allan Polunsky, Commissioners Carin Barth, Cindy Leon and John Steen. Commissioner Ada Brown was not present. A quorum was present at the meeting. DPS staff members and guests were also present.

Call to Order

The meeting was called to order by Chairman Polunsky at 9:05 a.m. Proper notice had been posted.

Discharge Appeal Hearing (01:35 – indicates time stamp from audio)

A request for continuance from Michael Deck's attorney had been submitted and approved. The continuance of Mr. Deck's discharge appeal hearing will take place at a later date.

Approval of Minutes (02:12)

A motion was made by Commissioner Steen and seconded by Commissioner Leon approving the minutes as submitted for the February 16, 2012 meeting. Motion passed unanimously.

Public Comment (02:49)

No public comment.

Directors Report (03:07)

A. Presentation of Medal of Merit awards

Director McCraw presented Medal of Merit awards to Lieutenant Edward Burris, Dr. Frances Douglas, Captain David Franklin, Assistant Chief Pilot Timothy Ochsner and Captain Mike Tacquard in recognition of their significant contributions in the development of the Department Veteran Assistance Program (DVAP) for the Texas Department of Public Safety. This program assists DPS employees during the pre-deployment, deployment and post-deployment phases of military activation by concentrating on the employee, the employee's family and the Department.

Their contributions include collaborating with Psychological Services for clinical and administrative support, advocating and getting approval from DPS' chain of command for program implementation, helping integrate the program in all regions across the state, helping author the current veteran's leave policy and becoming certified in peer support to better serve numerous veteran's needs.

Their exceptional leadership and tireless efforts have positively touched the lives of numerous DPS military veterans and families. Their actions are in keeping with the finest traditions of the Texas Department of Public Safety and reflect great credit upon themselves, the Department, and the State of Texas.

B. Recognition of Victoria Sungino recipient of the 2012 Texas Public Employees Association Unsung Hero Award

Director McCraw recognized Victor Sungino, Crime Analyst in the Intelligence and Counter Terrorism Division, as the recipient of the 2012 Texas Public Employees Association Unsung Hero Award. Victoria was chosen by the selection committee from over 45 nominations received.

In January 2010, Mrs. Sungino was assigned to the Department's Texas Top Ten Fugitive Program. Upon receiving her assignment, she quickly realized the program she inherited was lacking in operational success and program direction.

Mrs. Sungino negotiated with the Governor's Office to obtain Tip Soft for the Department, which is the software used for taking Crime Stoppers tips. She successfully negotiated with employees of the Governor's Office and the Crime Stoppers Board to increase the reward amounts for the Texas Top 10 Fugitives, which has significantly increased the number of tips received. In addition, she also worked with the Governor's Office and the Criminal Investigations Division to launch the Texas Top 10 Sex Offenders, which has gained a great deal of favorable press for the Department.

Mrs. Sungino was instrumental in creating social media network accounts such as Facebook and Twitter to reach a broader audience and utilized Smartphone technology and texting capabilities to receive the public's tip and lead information. She negotiated with Time Warner Cable to have the fugitive lists advertised at no cost to the Department or the Crime Stoppers program and is in the process of reaching out to Comcast and DirecTV to negotiate similar advertising. The first apprehension due to a social media tip was made in July, 2011. Since Mrs. Sungino's arrival into the Texas Top Ten Program in January 2010, the law enforcement community has received hundreds of tips and leads related to wanted fugitives and have arrested 34 of the featured subjects.

Chairman Polunsky presented medallions to the members of the commission as honorary members of the DPS Tactical Marine Unit. During the Weslaco building dedication in January, most of the commissioners went on the boat to experience their operations. While on patrol they came across an apprehension of a large quantity of marijuana and they were able to observe first-hand the importance of these boats and operations.

Executive Session (18:46)

The Commission adjourned into Executive Session to discuss security issues, to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the Director's action of discharging employees as identified in this agenda; ongoing criminal investigations. Executive Session began at 9:23 a.m.

(19:24) The Public Safety Commission reconvened the open session at 2:12 p.m.

New Business (20:37)

A. Report, discussion and possible action regarding the Department's evaluation and discipline of DWI offenses for commissioned and non-commissioned personnel

Commissioner Steen asked to defer this item for the next meeting.

B. Report and discussion regarding communications equipment for commissioned personnel

Commissioner Barth asked AD Skylor Hearn, Law Enforcement Support, what communication is available to commissioned officers while they are out of their vehicles. AD Hearn responded that every officer has a portable device. The issue lies on where they are assigned as to their radio capabilities. AD Hearn advised that one of the situations that the commissioners were aware of involved a trooper in Weslaco that did not have a radio to communication with the helicopter. The trooper did have a radio but it wasn't charged. It's not a training issue but a technology issue as these radios are left plugged in and it kills the cells in the battery, thus you have a dead radio. The radios in the vehicles need to be in the car, charged and make sure they are functioning since you never know when a situation will arise and the equipment will be needed.

We currently have 736 APX700 units issued but we have 3,870 total agency personnel (commissioned and non-commissioned communications and emergency management personnel that respond to emergencies). Each unit costs between \$6,000 - \$7,000. Commissioner Barth asked if we have the ability to lease equipment. AD Hearn responded that we have always purchased rather than leased equipment but we can definitely look at that option.

Commissioner Steen and Leon stated they had talked to troopers, while in Weslaco, and they rely entirely on their cell phones due to no coverage. Commissioner Leon asked if we intended to communicate with the cell phone companies for more towers especially in dead areas. AD Hearn replied they are trying to identify the dead areas and will consider contacting the major cell phone companies to see if they could enhance towers in these areas as a public safety issue. We are currently identifying existing towers to hang repeaters to extend cell phone range. Director McCraw stated while progress is being made with cell phones, we are still not there yet. Communications is a safety issue. We will submit exceptional items in our LAR for next session for more technology. Commissioner Barth would like the Department to consider leasing equipment to stay on top of the latest technology. In addition, if we do have the ability to lease, how much money would we need to fulfill our communication needs?

C. Review of pending contract renewals/change orders/awards

1. Modification of Learning Management System for enhancements and application discovery (Saba Consulting Inc)

AD Wayne Mueller, Administration, asked to pass on this item as the Contract Review Board met yesterday but did not consider this item.

2. MegaCenter biometric equipment purchase (Morpho Trust)

AD Wayne Mueller, Administration, provided an informational update regarding the Morpho Trust contract. Safran bought L-1 and is now operating under Morpho Trust. L-1 produces identity documents around the world and over 40 states currently utilize their service. We currently use L-1 for identification cards. We are currently in need of purchasing 128 unit of biometric equipment (signature and fingerprint capturing devices) for our MegaCenters. The contract amount for 128 units is \$820,144. Commissioner Steen inquired as to who are the members of the Contract Review Board. AD Mueller responded that he chairs the Board and other members are General Counsel, Procurement, Finance, a member from the Services and Law Enforcement side of the Department and Commissioner Barth is contacted regarding contracts but doesn't serve directly on the Board. A request was made by Commissioner Barth and Steen for AD Mueller to brief the Commissioners at the next meeting on the Contract Review Board members and

its process. Commissioner Barth added the purchase of the 128 biometric units is a short term fix in order to meet the deadlines and provides the best equipment in respect to opening the Mega Centers.

D. Report, discussion, and possible action on proposed amendments to Texas Highway Patrol Rule for publication to receive public comment: Rule 3.52, 37 TAC Sec. 3.52 concerning Police Traffic Supervision on Interstate Highways in Cities of Over 50,000 Population

AD Luis Gonzalez, Texas Highway Patrol presented this rule proposing action to post it to Texas Register for public consideration. The proposed rule modifies the language to read that officers of the department will not be routinely assigned traffic supervision duties on these sections of the interstate systems. Officer will handle major dangerous violations they observe while traveling such sections, **and may take** routine enforcement action. **A motion was made by Commissioner Steen seconded by Commissioner Leon approving the proposed rule for publication. Motion passed unanimously**

Ongoing Business

Reports, discussion and possible action regarding the following:

A. Report, discussion and possible action regarding the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team

No discussion.

B. Report, discussion, and possible action by the Commission regarding modification and transformation of the DPS organizational structure approval of personnel placements and salaries pursuant to Government Code chapter 411, Secs. 411.005, 411.006 and 411.0071

No discussion.

C. Follow-up report, discussion and possible action on the Department of Public Safety ethics policy and reporting requirements

Item deferred to next meeting due to the absence of Commissioner Brown.

D. Update report, discussion and possible action regarding the status of building safety and security at the DPS campus on North Lamar

No discussion.

E. Report, discussion and possible action on the Fiscal Year 2012 Operating Budget

AD Denise Hudson, Finance, stated the most significant change from last month's report is federal funds. A total of \$70 million in unspent homeland security grants was moved forward. The operating budget reflects a 6% remaining balance due to no expenditures in our grant line, but grants are expected to be issued in the new few months. There is an 8% remaining budget in fuel based on budgeted amount of \$3.72 per gallon. We are currently paying \$3.28 per gallon in Fleet.

F. Report, discussion and possible action regarding purchases using seized funds

AD Denise Hudson, Finance, reported there is \$12 million in cash under seized funds. Collections have been lower than in previous months but we're hoping to have higher figures for future months as we did in January 2012. Director McCraw commented we have used these funds in the past for aircraft as the focus on these funds is on safety. We are waiting for a response from the LBB for approval of security enhancements but have not received a response as of yet. During the last legislative session, they authorized the Department to get 40% of state-level forfeitures. It's too early to determine how much revenue we will see from this change.

G. Update report, discussion and possible action regarding recruitment

DAD Frank Woodall, Education, Training and Research, reported we currently have 54 recruits. One recruit was transferred to an intern program in Lubbock, due to an injury. There were 4,000 applicants that applied online at the first of the year and 17% made it through the process. Of those applicants, 470 have been pre-screened, 90 are waiting to be tested, 57 on polygraph, 40 on backgrounds, 35 for oral interviews. Twenty-five of those waiting for oral interviews are scheduled for this week. We currently have 13 individuals for the next recruit school, but no date has been set. We are continuing to work aggressively on recruiting. The Army announced they will discharge 80,000 starting in mid-summer so we are focusing our recruiting efforts at military facilities. We have two military recruiters and one Austin recruiter has moved to Fort Hood to focus on military recruits. There has been an increase in the recruitment bonus program, but not at a significant amount. General Counsel is working on policies and payment for this program. Some staff has requested the bonus be paid to the recruit, instead of receiving the funds, to assist with moving expenses. That, too, is being reviewed by General Counsel at this time. Chairman Polunsky stated he would be interested in receiving an update from General Counsel once the task has been completed.

H. Report, discussion and possible action regarding Continuity Plan at the Department of Public Safety

No discussion.

I. Status report, discussion and possible action on Department generators – specifically conversion updates with electrical companies around the state

AD Nim Kidd, Emergency Management, reported that conversations with all electric companies around the state have been completed and we have Tier I status for all sites.

J. Report, discussion and possible action regarding Emergency Management's procurement status of RFP for audit services with respect to Federal monies for past grants

AD Nim Kidd, Emergency Management, reported there has been a small reduction in the backlog. We have two contractors in place and Grant Thornton is experiencing a 4½ - 5 month delay due to learning the system and business. The other contractor experienced the same startup delays. We should see a decrease in the backlog next month. They are currently communicating with two other audit firms that are moving from GSA to TXMAS.

K. Report, discussion and possible action regarding Emergency Management disaster response contract services

AD Nim Kidd, Emergency Management, asked if there were any more questions regarding this item since they had moved from an old to new system. No further questions.

L. Report, discussion and possible action regarding Commission requests for additional auditing to be performed by the Chief Auditor's Office

Chief Auditor Steve Goodson provided an update on the State Auditor's Office Single Audit (A133 Audit) for fiscal year 2011 which included four DPS programs. This is an annual audit in which work is completed in January and published in February/March. The audit did not render any adverse opinions (first time in several years that DPS didn't have any adverse opinions) but it did render 17 findings (4 material weaknesses and 13 significant deficiencies). Several issues have already been corrected. Material weaknesses include financial reports, drawdowns and USAS disbursements, sub-recipient monitoring, and interest earned and competitive procurement. We recently converted to the statewide accounting system, USAS. The reason for Department's success in not receiving any adverse opinions is greatly due to the leadership and the expertise of the grant steering committee.

The PCI and L1 audit reports have been issued which revealed some management issues and action has been taken and issues corrected. No further updates requested on either report.

At the request of the Commission, Chief Auditor Goodson was asked to review assertions during the February discharge hearing as it referenced we had 'crooked or rogue' offices. After reading the transcript, it was determined that there are no rogue offices relating to DPS and the term 'crooked' was used but referenced inspection stations in Navasota and Houston not DPS.

Real Estate - Chief Auditor Steve Goodson reported that the audit has been completed but the written report is not ready at this time. Commission will wait for the written report.

M. Report, discussion and possible action on Driver License monthly updates

AD Rebecca Davio, Driver License, reported the Fort Worth lease is scheduled to be signed today and we are still on target for opening in January. The San Antonio mega center location in Leon Valley is receiving neighborhood opposition. We will know more after next Tuesday's public meeting. On paper this property appeared to meet all the criteria but we have learned there is a history of strong neighborhood opposition. Question was posed by Chairman Polunsky if the site is properly zoned, how can there be opposition? AD Davio is not familiar with the specifics but will research and provide a memo next week to the commissioners explaining the zoning issues and its designation, if the State has the ability to develop a facility and history of this particular property. If we are not able to move forward with this property, we will have to look for an alternative location and likely incur delays into 2013. The other four mega centers are on target for September.

N. Update report, discussion and possible action on the presentation of the Office of Inspector General 2011 Annual Report of Operations and OIG resource allocations/regional assignments of personnel

Inspector General Stuart Platt met with Commissioner Brown and he is prepared to make recommendations but would like to wait for Commissioner Brown to be present so she can make her staffing recommendation. Director McCraw is also prepared to issue a response.

Director McCraw's response is to improve the diversion of resources within the department. He is not completely against OIG recommendations, but would like to seek other viable options. The EEO model was used as an example of how investigations could be managed. EEO investigations were completed in 17 days compared to OIG completing investigations in 33 days. DPS has tremendous investigative resources statewide and a variety of skill sets. DPS is trying to eliminate administrative investigations. The goal is to streamline investigations in a timely and proactive manner with an Early Warning System. Director McCraw does not want to eliminate the TAG system when DPS has the resources to have one, being a professional law enforcement agency. In the OIG model, positions are being paid more for administrative investigations than those same level positions in the field whose positions require supervising and performing criminal investigations.

IG Platt responded to the EEO timeline presented by Director McCraw by indicating EEO investigations were primarily done by Rhonda Fleming during Sept. 2009 and the 33 day average investigation period is not reflective of OIG running investigations during that time

period. In March 2011, Rhonda Fleming met with Kent Radney to discuss lack of staff to meet EEO investigation needs. It was during that time OIG began handling some of the EEO investigations. IG Platt referenced last year, OIG did use TAG investigations, whereas they were previously done in the field. Percentage of TAG investigations was 22.3 % to total OIG total investigation; 48 days was the average investigative days plus 11 days of rewrites and drafts. The total average was 59 days. Sergeants and lieutenants worked on these investigations in addition to their regular duties. IG Platt referenced a staffing model study done at the direction of Colonel Clark in 2009, by senior leadership at DPS, in response to OIG statute as part of Sunset legislation. The Sunset legislation recommendation indicated the need for 32 lieutenants, or 27 more investigators. Minutes from the March 2010 PSC meeting approved an offsite location of the then, Internal Affairs Office, and phasing in of staff to include reaching the recommended staffing numbers. Deputy IG Kent Radney added additional comments in referencing the PSC approval of the OIG expansion in March 2010, but indicated that no expansion occurred as a result of the PSC approval which was during the tenure of IG Collins. In referencing slide 113, IG Platt proposed his recommendation, reflecting 12 personnel short of what was recommended in the 2009 DPS staffing model study. IG Platt's slide summarized the costs of his recommendations. No numbers were verbalized.

Director McCraw summarized his recommendation, which is to use the EEO model where DPS has the ability to leverage qualified investigators, being DPS is a law enforcement agency in comparison to non law enforcement agency, i.e. TXDOT. OIG could utilize the number of investigators or resources at any given time to coincide with the need of investigations at the time vs. having a permanent increase in number of lieutenants with the OIG recommendation. He indicated that a lieutenant would be paid, in the OIG model, for sergeant's work.

IG Platt indicated OIG worked with the TAG program this past year. TAG is realistically taken away from their duties to complete an investigation, which could take 48 days (according to last year's average). IG Platt commented on the style of TAG reports. He most often agrees with the outcome, but not always with the style of reports submitted. Due to the length of time the TAG takes to complete an investigation, he does not send it back for changes. If in-house, he could have the reports revised at that time. IG Platt was asked to provide and comment on the specific OIG statute: Statute 411.244 F2-Provision requires OIG to provide recommendations on outcome of investigations, trends of investigations, and make recommendations for future complaints. IG Platt stated he would like to meet with Chief Luis Gonzalez, Highway Patrol, in order to incorporate Chief Gonzalez' expertise in the OIG's recommendations.

Commissioners tasked IG Platt and Director McCraw to provide their specific recommendations based upon their presentations today, for April PSC meeting. Material should be included in binders for all Commissioners to review prior to meeting.

IG Platt introduced Lt. Jerome Johnson, the replacement for Lt. Collins in San Antonio.

O. Report, discussion, and possible action regarding the adoption of proposed amendments to Driver License Rule: 15.25, 37 TAC Sec. 15.25 concerning alternate address for Peace Officers

AD Davio is requesting approval for final adoption of Rule 15.25 which was brought forward in January providing an alternate address for peace officers. No public comments

were received and we are now requesting approval. **A motion was made by Commissioner Steen seconded by Commissioner Barth approving the proposed amendments to Driver License Rule 15.25. Motion passed unanimously.**

- P. Report, discussion and possible action regarding the adoption of proposed amendments to Driver License Rule: 15.38, 37 TAC Sec. 15.38 concerning Fee Exemptions**
AD Davio is requesting approval for final adoption of Rule 15.38 which was brought forward in January waiving the identification card fee for disabled veterans. The Department already waives their driver license fee. No public comments were received and we are now requesting approval. **A motion was made by Commissioner Steen seconded by Commissioner Barth approving the proposed amendments to Driver License Rule 15.38. Motion passed unanimously.**

Reports (2:24:20)

- A. Commission member reports and discussion** - None
- B. Finance Report** - None
- C. Chief Auditors Office Report** - None
- D. Division status reports on activities and action**

AD Nim Kidd, Emergency Management, thanked THP for their support during the recent floods.

Commissioner Barth inquired if there has been an increase in crashes due to the increased speed limits. Chief Gonzalez replied it is still too early but data can be provided at a later date.

Consent Items (2:26:48)

- A. Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code chapter 411, Secs. 411.023 & 411.024; Special Ranger: Miguel A. Campos, James Von Debrow III, Reginald B. Fields, Charles L. Garrett Jr., Mark W. Ginn, Samuel E. Morris, Fred E. Richnow, Bruce W. Roberts, Jerry T. Sanders and Kenneth R. Sellers; Special Texas Ranger: Donald R. Morris**
- B. Report, discussion, and possible action regarding the adoption of proposed reorganization of Chapter 21, Equipment and Vehicle Safety Standards, including: the repeal of Rules 21.2 -21.4, and 21.7, 37 TAC Secs. 21.2 – 21.4, and 21.7, amendments to Rule 21.1, 37 TAC Sec. 21.1, and new Rules 21.2 – 21.7, and 21.9, 37 TAC Secs. 21.2 – 21.7, and 21.9**
- C. Acknowledgement of donation of four cases of Tecan pipette tips to TXDPS Laboratory facilities – HQ Austin (donation by Tecan, Inc)**

A motion was made by Commissioner Steen seconded by Commissioner Leon approving Consent Items A, B, and C. Motion passed unanimously.

Items for Future Agenda

- Department's evaluation and discipline of DWI offenses
- Exceptional Items Descriptions
- Contract Review Board

Date for Future Meeting

The next Public Safety Commission meeting is scheduled for April 20, 2012 starting at 9:00 a.m. in Austin, Texas and will include a discharge appeal hearing.

Adjourn (2:31:45)

The meeting was adjourned at 4:27 p.m.

Read and approved this 20th day of April, 2012.


Chairman

**TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE**

On March 21, 2012, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter B
Section 15.25

The Texas Department of Public Safety (the department) adopts amendments to Section 15.25, concerning Address. This section is adopted without changes to the proposed text as published in the February 10, 2012 issue of the *Texas Register* (37 TexReg 649) and will not be republished.

These amendments are required by the 82nd Texas Legislature, 2011, SB 1292, which added Texas Transportation Code, Section 521.1211, requiring the department to issue driver licenses displaying an alternate address for eligible peace officers. The amendments to Section 15.25 inform the public of what will be required of applicants for issuance of an eligible peace officer's driver license with an alternate address.

No comments were received regarding the adoption of these amendments.

These amendments are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, Section 521.1211, which authorizes the department to adopt rules for the issuance of a driver's license to a peace officer that omits the license holder's actual residence address and includes, as an alternative, an address that is in the municipality or county of the peace officer's residence and is acceptable to the department.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.


Allan B. Polunsky, Chair
Public Safety Commission

**TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE**

On March 21, 2012, the Public Safety Commission (the commission) by majority vote approved rules concerning:

Driver License Rules
Title 37 T.A.C. Part I, Chapter 15
Subchapter B
Section 15.38

The Texas Department of Public Safety (the department) adopts amendments to Section 15.38, concerning Fee Exemption. This section is adopted without changes to the proposed text as published in the February 10, 2012 issue of the *Texas Register* (37 TexReg 650) and will not be republished.

These amendments are required by the 82nd Texas Legislature, 2011, HB 1148, which amended Texas Transportation Code, Section 521.426(a), requiring the department to waive the issuance fee for identification certificates to qualified disabled veterans. The amendments to Section 15.38 inform the public of what will be required of applicants for issuance of a no-cost identification certificate and also clarify the rule language for easier understanding.

No comments were received regarding the adoption of these amendments.

These amendments are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, Section 521.426(b), which authorizes the department to adopt rules relating to the proof of entitlement to a no-cost driver's license or election identification certificate to eligible applicants.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.


Allan B. Polunsky, Chair
Public Safety Commission

**TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE**

On March 21, 2012, the Public Safety Commission (the commission) by majority vote approved rules concerning:

**Equipment and Vehicle Safety Standards
Title 37 T.A.C. Part I, Chapter 21
Sections 21.1 - 21.7, and 21.9**

The Texas Department of Public Safety (the department) adopts amendments to Section 21.1 and new Sections 21.2 – 21.7 and 21.9, concerning Equipment and Vehicle Safety Standards. These sections are adopted without changes to the proposed text as published in the February 10, 2012 issue of the *Texas Register* (37 TexReg 651) and will not be republished.

The amendments to Section 21.1 and the simultaneous repeal of and proposed new Sections 21.2 - 21.7 and 21.9 are necessary to reorganize existing language and improve the clarity of Chapter 21. The chapter title is also changed from "Equipment and Vehicle Standards" to "Equipment and Vehicle Safety Standards" to better describe the contents of Chapter 21.

The amendments to Section 21.1 are necessary to improve clarity by renaming the section from "Standards for Vehicle Equipment" to "Standards for Vehicle Safety" and by moving existing language relating to the Standards for Vehicle Performance (originally Section 21.1(d) and (e)) to new Section 21.2, by moving the Standards for Sunscreening (originally Section 21.1(f)) to new Section 21.3, and by moving the Standards for Safety Guards or Flaps (originally Section 21.1(g)) to new Section 21.4. Additional amendments to Section 21.1 are necessary to clarify that the "Standards" and "Terms and/or Definitions" apply to Chapter 21, rather than only Section 21.1.

Except for the following revisions, the original language from former Section 21.1(d) - (g) is transferred to new Sections 21.2 - 21.4.

Language from Section 21.1(g)(9) which relates to sunscreening devices and vehicle inspection is moved for clarity, ensuring references to sunscreening devices are located in the appropriate section of the rule to new Section 21.3, concerning Standards for Sunscreening.

New Section 21.4, Standards for Safety Guards or Flaps, incorporates language added to Texas Transportation Code, Section 547.606 as a result of 82nd Legislature, 2011, HB1330, relating to safety guards or flaps. The statutory changes, effective September 1, 2011, provide that safety guards or flaps also apply to certain vehicles with at least two super single tires and provides the definition for a "super single tire."

New language has been added to new Section 21.4 to provide that safety guards or flaps may be held in place by structure as well as by weight, clarifying that a safety guard or flap held in place by a frame or other device is in compliance with the regulation. Additional new language to Section 21.4 clarifies that the 12-inch tolerance for safety guards or flaps only applies when the vehicle is standing still or otherwise not in motion and that safety guards or flaps, which are designed to be flexible, may swing with the wind currents created by the motion of a commercial motor vehicle, so long as they continue to perform the function for which they were designed, that is, blocking particles thrown backward by the rear tires.

Collectively, these additions to new Section 21.4 ensure that laws related to safety guards or flaps are enforced in a more uniform manner.

Language from former Section 21.7, concerning Safety Chains, is moved to proposed new Section 21.5, concerning Standards for Safety Chains. The following revision has been made to the original text. The effective date referenced in the proposed new Section 21.7(b)(3) is clearly stated and language clarifying that safety chains are not required to be crossed, but in all cases must be connected in a manner to ensure the tow-bar does not drop to the ground if it fails or become disconnected from the towing vehicle has been added.

Language from previously existing Section 21.2 is transferred to proposed new Section 21.6, concerning Motorcycle Operator and Passengers Protective Headgear Minimum Safety Standards and Exemption for Motorcycle Protective Headgear. The original language is modified to remove the specific requirement of \$10,000 of medical benefits and clarify that the amount of benefits required by Texas Transportation Code, Section 661.003 will be determined by the Texas Department of Insurance. The original language from former Section 21.2(f) - (i) is deleted and is not included in the new Section 21.6.

Language from Section 21.3 is transferred to new proposed Section 21.7, concerning Certification of Certain Vehicles. No changes were made to the original text. Language from Section 21.4 is transferred to new proposed Section 21.9, concerning Slow-Moving Vehicle Emblem Standards. Again, no changes were made to the original text.

No comments were received regarding the adoption of these amendments and new sections.

These amendments are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, Section 547.101, which authorizes the Department of Public Safety to adopt standards for vehicle equipment.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the commission required by the Administrative Procedures Act, Government Code, Section 2001.033.



Allan B. Polunsky, Chair
Public Safety Commission

**TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE**

On March 21, 2012, the Public Safety Commission (the commission) by majority vote approved rules concerning:

**Equipment and Vehicle Standards
Title 37 T.A.C. Part I, Chapter 21
Sections 21.2 - 21.4, and 21.7**

The Texas Department of Public Safety (the department) adopts the repeal of Sections 21.2 – 21.4 and 21.7, concerning Equipment and Vehicle Standards. These sections are adopted without changes to the proposed text as published in the February 10, 2012 issue of the *Texas Register* (37 TexReg 659) and will not be republished.

The repeal of these sections is filed simultaneously with amendments to Section 21.1 and proposed new Sections 21.2 - 21.7 and 21.9 and is necessary to reorganize existing language and improve the clarity of Chapter 21.

No comments were received regarding the adoption of these repeals.

These repeals are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, Section 547.101, which authorizes the Department of Public Safety to adopt standards for vehicle equipment.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

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Allan B. Polunsky, Chair
Public Safety Commission

**SPECIAL RANGER/SPECIAL TEXAS RANGER APPLICANTS
March 2012**

Special Ranger Applicants:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Campos, Miguel A.	THP	Austin	11/30/2011	32 years	
Debrow, James Von III	THP	DL/Austin	05/31/2005	24 years	
Fields, Reginald B.	THP	DL/Garland	09/04/2009	24 years	
Garrett, Charles L., Jr.	THP	CVE/Tyler	08/31/2010	29 years	
Ginn, Mark W.	THP	CVE/Corpus Christi	12/31/2011	25 years	
Morris, Samuel E.	CID	Houston	12/30/2011	24 years	
Richnow, Fred E.	THP	Lufkin	11/30/2011	39 years	
Roberts, Bruce W.	THP	CVE/Sulphur Springs	11/30/2011	37 years	
Sanders, Jerry T.	THP	CVE/Palestine	01/28/2010	33 years	
Sellers, Kenneth R.	THP	CVE/Georgetown	08/31/2011	38 years	

Special Texas Ranger Applicant:

Name	Division	Service/Station	Retire Date	Years of Service	Approved
Morris, Donald R.	Rangers	Lufkin	08/31/2002	33 years	

Approved by the Public Safety Commission

 Date 3/21/12